



# Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108  
phone: 617-727-0060, fax: 617-723-5851



SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 663

## IN THE MATTER OF DIANE WONG

### DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Diane Wong pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, §4(j).

On November 13, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Wong. The Commission has concluded its inquiry and, on May 30, 2002, found reasonable cause to believe that Wong violated G.L. c. 268A, §23(b)(2) and (b)(3).

The Commission and Wong now agree to the following findings of fact and conclusions of law:

#### **-Findings of Fact-**

1. Diane Wong served as the Massachusetts Bay Transportation Authority's Assistant General Manager for Organization Diversity between December 1, 1997 and June 2002.
2. In early 1998, shortly after she was hired, Wong was interested in establishing a database of people and firms interested in providing diversity training to MBTA employees. There were no written procedures at the time at the MBTA for accumulating such information. Other employees at the MBTA with more experience than Wong suggested the use of a Request for Proposals ("RFP"). The RFP was drafted in very broad terms so that it would elicit the broadest possible spectrum of persons and firms interested in providing such training.
3. On or about March 30, 1998, the Office of Organizational Diversity and the MBTA's Department of Human Resources jointly issued an RFP soliciting proposals from firms interested in providing diversity training to MBTA employees.
4. In conjunction with the issuance of the RFP, Wong and Human Resources personnel organized a five-member RFP review committee to review proposals and select contractors.

5. Fifty firms submitted proposals in response to the RFP. Praxis Consultants & Trainers was one of the firms that submitted a proposal.

6. Wong's son-in-law, Marc Saunders, was one of Praxis's three principals.

7. Copies of the 50 proposals, together with rating sheets, were distributed to the five members of the RFP review committee.

8. The RFP review committee sorted the bidders into those whose proposals were useful in the immediate future, those whose proposals might be useful in the future, and those whose proposals were not useful. Praxis was one of the firms deemed useful.

9. Subsequent to the RFP review committee's informal discussions, Wong unilaterally decided to contract with two proposers, one of which was Praxis.

10. Praxis executed three contracts with the MBTA, the first in or about late May 1998 for \$10,000, the second in or about September 1998 for \$10,000, and the third in or about late 2000 for \$20,000. All of the contracts incorporated Praxis's April 30, 1998 proposal in response to the RFP. Praxis provided the trainings under the first two contracts, for which the MBTA paid Praxis a total of \$20,000. The trainings by Praxis were well-received by MBTA employees who attended. The MBTA canceled the final training, however, and withheld payment.

11. Each of the three contracts was initiated by Wong's Office of Organizational Diversity, and each called for the submission of invoices directly to Wong.

#### **-Conclusions of Law-**

12. Section 23(b)(2) prohibits a state employee from knowingly or with reason to know using their position to obtain for themselves or others unwarranted privileges of substantial value not properly available to similarly situated individuals.

13. As an MBTA official, Wong was a state employee, as that term is defined in G.L. c. 268A, § 1.

14. By selecting Praxis as a winning bidder, Wong knowingly or with reason to know used her position as an MBTA employee.

15. Praxis's ability to secure MBTA contracts awarded by one of the principal's in-laws, absent further input from the duly organized RFP review committee, constituted an unwarranted privilege, not properly available to similarly situated individuals.

16. The unwarranted privilege led directly to the award of three contracts worth, in total, \$40,000 to Praxis, and therefore was of substantial value.

17. Therefore, by knowingly or with reason to know using her position at the MBTA to secure for Praxis an unwarranted privilege of substantial value not properly available to similarly situated individuals, Wong violated §23(b)(2).

18. Section 23(b)(3) prohibits a state employee from knowingly, or with reason to know, acting in a manner that would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy their favor in the performance of their official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. It shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.

19. By awarding three contracts to Praxis, a company in which her son-in-law was one of three principals, Wong knowingly or with reason to know, acted in a manner that would cause a reasonable person, having knowledge of all the relevant circumstances, to conclude that Praxis could unduly enjoy Wong's favor in the performance of her official duties. The appearance of a conflict of interest was exacerbated by Wong's role in initiating, and participating in, the RFP review committee process that identified Praxis's proposal as useful. Wong made no public disclosure or, again exacerbating the appearance of a conflict of interest, any disclosure even to her colleagues at the MBTA, in connection with any of the three contract awards. Therefore, in so acting, Wong violated G.L. c. 268A, §23(b)(3) on three occasions.

#### **-Resolution-**

In view of the foregoing violation of G.L. c. 268A by Wong, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Wong:

- (1) that Wong pay to the Commission the sum of \$5,000 as a civil penalty for violating G.L. c. 268A, §23(b)(2) and §23(b)(3); and
- (2) that she waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

STATE ETHICS COMMISSION

Dated: September 10, 2002